

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

MARTIN J. WALSH,)
Secretary of Labor,)
United States Department)
of Labor,)
Plaintiff,)
vs.) No. 2021 CV 56
DAYEMI ORGANIZATION,)
INC., d/b/a LONGBRANCH)
CAFE AND BAKERY, an)
Illinois Corporation,)
and ELAINE RAMSEYER)
GREENBERG, an)
individual,)
Defendants.)

The discovery deposition of
ELAINE RAMSEYER GREENBERG, taken in the
above-entitled cause, before Trisha A. Rankin, a
Certified Shorthand Reporter in the State of
Illinois, on September 30th, 2021, at the hour
of 9:00 a.m., via videoconference, pursuant to
notice.

Reported by: Trisha A. Rankin, CSR
CSR License No.: 084.004833



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10 Representing the Plaintiff;

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21
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24



I N D E X

WITNESS

EXAMINATION

ELAINE RAMSEYER GREENBERG

By Ms. Nolte

4

By Ms. Rhode

135

E X H I B I T S

NUMBER

IDENTIFICATION

ELAINE RAMSEYER GREENBERG Deposition

Exhibit 1

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Exhibit 2

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Exhibit 3

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Exhibit 4

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Exhibit 5

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Exhibit 6

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Exhibit 7

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Exhibit 8

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1 THE REPORTER: Parties are present via
2 videoconference to take the discovery deposition
3 of Elaine Ramseyer. The deposition is being
4 taken by means of videoconferencing and the oath
5 will be administered remotely by the court
6 reporter pursuant to Governor Pritzker's
7 executive order 2020-14.

8 will all parties present please state
9 your name and agreement with the procedure?

10 MS. NOLTE: Good morning. This is
11 Elisabeth Nolte for the Secretary of Labor. And
12 I am in agreement with the procedure.

13 MS. RHODE: And I'm Shari Rhode. I'm here
14 for the defendants. And I agree to the
15 procedures.

16 THE WITNESS: And I'm Elaine Ramseyer
17 Greenberg. I'm the defendant.

18 ELAINE RAMSEYER GREENBERG,
19 having been first duly sworn, was examined and
20 testified as follows:

21 EXAMINATION

22 BY MS. NOLTE:

23 Q. Good morning, again. My name is
24 Elisabeth Nolte. I'm an attorney for the



1 A. Thirty minutes.

2 Q. And did you speak with anyone other
3 than your attorney to prepare for today?

4 A. No.

5 Q. Okay. So my next series of questions
6 relates to Longbranch Cafe located at 100 East
7 Jackson Street in Carbondale, Illinois.

8 Ms. Ramseyer, how long have you worked at the
9 Cafe?

10 A. Twenty-three years.

11 Q. And what is your position title at the
12 Cafe?

13 A. I'm currently the general manager.

14 Q. How long have you had that position?

15 A. That's a good question. I started as a
16 baker and got pushed into management. It's a
17 bit of a you blur. But I'm guessing eighteen
18 years.

19 Q. So eighteen years in your current
20 position, management position?

21 A. That sounds about right.

22 Q. And could you please describe for me
23 your duties as general manager.

24 A. I oversee the general day-to-day



1 operations. The -- the -- what's happening in
2 the kitchen. What's happening in the bakery.
3 what's happening on the floor.

4 I make sure the place gets opened on
5 time. That things are -- customers are being
6 taken care of. That the ordering and receiving
7 is happening. It's typical of certain GM stuff
8 on a small scale, small town scale. A lot of
9 moving parts.

10 Q. I can imagine. So it sounds like you
11 -- do you supervise employees at the Cafe?

12 A. I do.

13 Q. And can you hire employees for the
14 Cafe?

15 A. Yes.

16 Q. How about fire employees for the Cafe?

17 A. Of course.

18 Q. And about how many days per week do you
19 work at the Cafe?

20 A. Five.

21 Q. I know you had mentioned baker before,
22 before you held this position. Had there been
23 any other positions besides baker or general
24 manager that you have held at the Cafe?



1 A. I believe I'm secretary treasurer.

2 Q. Okay. Thank you. Just turning now to
3 a few basic questions about Longbranch Bakery
4 located at 218 North Illinois Street in
5 Carbondale. Have you ever worked at the Bakery,
6 Ms. Ramseyer?

7 A. I have.

8 Q. And when was that?

9 A. I did an apprenticeship in Germany.
10 And I came back and worked at the bakery for
11 about a month, training people in making German
12 bread. That would have been about five years
13 ago.

14 Q. And other than this month about five
15 years ago, have you been involved in the
16 operations of the Bakery at any time?

17 A. No, I have not worked at the Bakery.

18 Q. So you don't supervise employees at the
19 Bakery?

20 A. No. Not directly, no.

21 Q. Could you explain the relationship that
22 you have with employees at the Bakery, please.

23 A. The Bakery is about a block away from
24 the Cafe. It's bumped into the commissary to



1 the Cafe. The Bakery has its own staff of
2 bakers and a bakery manager. I interface with
3 those people every day because they're
4 delivering fresh baked goods.

5 Obviously when we throw the doors open
6 we have to have things fresh and in the case.
7 So I see these people every day on a working
8 basis. I also meet -- meet with the bakery
9 manager. Functions like that.

10 Q. When you say that you interface with
11 employees of the bakery every day, could you
12 describe what that looks like in a little bit
13 more detail.

14 A. As they're -- I see them in the Cafe as
15 they're coming in, bringing the baked goods.
16 I'm helping them load the two pastry cases.
17 we're discussing kind of on the fly, something
18 that happens in restaurants. Seasonal things.
19 You know, hey, Halloween is coming, got any
20 ideas, et cetera. Just the normal banter around
21 the day-to-day operations.

22 They let me know if they are running
23 low on things, and could I pop out and get an
24 ingredient. Or is it okay to, you know, buy



1 something extra. You know, or maybe there's a
2 special cake that's going to be delivered and I
3 need to know that someone is picking it up at
4 2:00.

5 It's just the day-to-day operations of
6 interfacing and bringing things over. It's, you
7 know, kind of a direct contact.

8 Q. Thank you for that explanation. I
9 appreciate it. So do you have any authority to
10 hire employees at the Bakery?

11 A. I do. As the general manager and as
12 the person working with the bakery manager, of
13 course, I do. Yes.

14 Q. And would you discipline or fire
15 employees at the Bakery?

16 A. Well, that's done through the bakery
17 manager, but I certainly have input to that and
18 provide guidance. And I guess if I put my foot
19 down one way or the other it would go my way.

20 Q. Okay. would you say that over the past
21 two years you've been at least familiar with all
22 of the employees in the Bakery?

23 A. Yes.

24 Q. And do you have any role with regards



1 to like setting pay practices at the Bakery?

2 A. Yes, raises are certainly -- I have to
3 approve raises, yes.

4 Q. And about how frequently would you say
5 you enter the Bakery space, the facility?

6 A. How often do I enter the physical
7 space?

8 Q. Yes.

9 A. Several times a week. At least two or
10 three times a week.

11 Q. Okay. Thank you.

12 A. Uh-huh.

13 Q. Turning back to operations more
14 generally, did Longbranch Cafe close for a
15 portion of 2020?

16 A. Yes. We closed due to the Coronavirus.

17 Q. And do you happen to know what date
18 that you had initially closed on?

19 A. Yes. I believe we closed on
20 March 15th.

21 Q. Of 2020, correct?

22 A. Correct.

23 Q. And do you recall what date the Cafe
24 re-opened?



1 A. Yes.

2 Q. Okay. Thank you. What sorts of
3 documents would those be, if you know?

4 A. Well, we -- I have a bookkeeper. We
5 track everything. So I just simply have to ask
6 her and she can give me the numbers. I mean
7 everything is tracked in Quick Books.

8 Q. Okay. Thank you. What was
9 Longbranch's, the Bakery and the Cafe, annual
10 dollar volume of sales for the year 2019?

11 A. 2019, I believe it was somewhere in the
12 area of 800,000, give or take, so. You have the
13 documentation already, so you can look it up.
14 And I'm drawing from memory, but I think in that
15 ballpark.

16 (Whereupon, RAMSEYER GREENBERG
17 Deposition Exhibit No. 3
18 was marked for identification.)

19 BY MS. NOLTE:

20 Q. Well, while we are on that subject, if
21 you can please turn to what I have marked as DOL
22 Deposition Exhibit 3.

23 A. Uh-huh.

24 Q. Now, this purports to be a statement of



1 daily pooled tips?

2 A. No.

3 Q. And did the Bakery make and keep
4 timecards showing the daily and weekly hours of
5 each employee, to your knowledge?

6 A. To my knowledge, the Bakery used
7 physical timecards to help people physically
8 punch in and out on a full-time clock. Then
9 when those hours were reported for payroll, it's
10 my understanding that the timecards were thrown
11 away and they started a new card.

12 Q. And who was it, if you know, who kept
13 those timecards before they were inputted into
14 payroll?

15 A. The bakery manager.

16 Q. Bakery manager. And who was it who
17 made the payroll records?

18 A. The bookkeeper.

19 Q. And I know we have discussed the
20 timecards, but how long were the payroll records
21 kept for, if you know, or are they kept for?

22 A. I don't know how long they are kept.

23 Q. Okay. Turning to talk more about the
24 employees of the Cafe. From 2018 through the



1 initially were paid \$5. And I think it bumped
2 up to 5.50 in the period in question. Now it's
3 up to 6.60 currently.

4 Q. Did the Cafe take a tip credit for
5 servers to meet its minimum wage obligation?

6 A. Yes. STOP

7 Q. Were servers informed about the Cafe
8 taking a tip credit towards their wages?

9 A. Informed? That's a tricky question.
10 It was -- yes, because it was on their paycheck.
11 I mean it had it in writing. So, yes, it's
12 informed, it's information.

13 Q. So they were informed through their
14 paycheck which would reflect that?

15 A. Yes.

16 Q. Was there any other way that they were
17 -- that servers were advised about the tip
18 credit?

19 A. Not to my knowledge. It's not like we
20 had a staff meeting around it.

21 Q. Okay. For baristas, what wage did the
22 Cafe pay baristas?

23 A. The same as servers.

24 Q. And then did the Cafe also take a tip



1 credit for baristas to meet its minimum wage
2 obligation?

3 A. Yes.

4 Q. And would baristas have been informed
5 via their payroll check in the same manner as
6 servers of the tip credit?

7 A. Yes, it was the same.

8 Q. Is there any other way in which
9 baristas would have been informed of the tip
10 credit?

11 A. No.

12 Q. Okay. At what wage did the Cafe pay
13 dishwashers?

14 A. Whatever the current minimum state wage
15 was. It varied.

16 Q. Did the Cafe take a tip credit for
17 dishwashers?

18 A. No.

19 Q. To your knowledge, did dishwashers
20 receive tips from customers?

21 A. From customers, no.

22 Q. And on what days did dishwashers work,
23 if you know?

24 A. Whatever days we were open.



1 Q. So was there a dishwasher on every day
2 that you were open?

3 A. Yes.

4 Q. Where within the physical facility did
5 the dishwashers perform their work?

6 A. In the kitchen.

7 Q. And did diners have access to the
8 kitchen?

9 A. No.

10 Q. So turning to cooks, what wage did the
11 Cafe pay cooks?

12 A. Started at minimum state wage and
13 bumped them up from there.

14 Q. Did the Cafe take a tip credit for
15 cooks?

16 A. No.

17 Q. And, to your knowledge, did cooks ever
18 receive tips from customers?

19 A. No.

20 Q. And did cooks also work in the kitchen?

21 A. Yes.

22 Q. Did cooks or dishwashers ever work any
23 other jobs?

24 A. No.



1 Q. So turning to talk about the tip pool
2 at the Cafe. I guess to the basis, the Cafe
3 operated a tip pool, is that correct?

4 A. Correct.

5 Q. And about how long? For how long has
6 the Cafe operated a tip pool?

7 A. The same amount of time that tips have
8 been being given. We have always had a tip
9 pool. And we continue, even to this day, to
10 have a tip pool.

11 Q. Okay. So during the period of January
12 2018 through the present, did you oversee the
13 tip pool at the Cafe?

14 A. No, the tip pool was not my personal
15 purview. That was the purview of the servers
16 and the baristas. So I did not manage the tip
17 pool, no.

18 Q. Could you please explain a little bit
19 more to me how the tip pool worked during the
20 period of January 2018 through February 2020,
21 specifically.

22 A. The tip pool was a long standing
23 practice that arose from conversations with the
24 servers and baristas, those who were receiving



1 tips, on how to distribute them or whether to
2 distribute them.

3 And it was decided by the servers and
4 baristas right from the beginning that they
5 would pool and that they would share tips, a
6 small percentage with the back of the house.
7 Because, of course, everyone understood that the
8 back of the house was working hard too, but they
9 weren't getting any tips. So they were
10 providing service as well, so.

11 And this was reviewed many times over
12 the years. It was re-examined. This question
13 of how to handle tips. And they chose to
14 distribute the tips in this way, to give a small
15 percentage.

16 As I mentioned, we initially didn't
17 even have a dish washer. So this created great
18 hardship to servers and baristas not having
19 someone to do their dishes. So they were very
20 grateful to have a dishwasher when that position
21 was added.

22 So they chose to give the dishwasher a
23 small percentage of what they were getting as a
24 token of good will. And they also chose to give



1 the cooks a small percentage on a daily basis.
2 which the cooks would pool in a jar. And then
3 every couple of weeks or so they would divide
4 it. Everybody would just get a very small
5 amount of money.

6 But, again, it was a token of goodwill.
7 We're, you know, a mom and pop operation, if you
8 will. A very small town. And it was a way that
9 -- I think they thought that it was just being,
10 you know, a nice person and more fair.

11 But it was the decision of the servers
12 and the baristas, one, to pool tips, and two, to
13 distribute it in this way. I personally did not
14 handle the tips, did not distribute the tips,
15 did not decide how they would do it with their
16 different buckets.

17 And they actually at one point had a
18 very complicated system, coming on and off the
19 clock, and their different buckets that were
20 labeled and named. And this they developed.

21 Q. Thank you. I would like to delve into
22 some different aspects of that a little bit
23 more. You had mentioned there was sort of a
24 complicated system in place. Just in terms of



1 logistics, during the period of January 2018
2 through February 2020, how logistically did the
3 tip pool work? Was there tip buckets? Did each
4 shift have a bucket? If you could explain to me
5 a little bit more about that, that would be
6 helpful.

7 A. There were -- there were tip buckets.
8 And on the honors system they put their cash
9 tips or credit card tips, they would cash them
10 out, their credit card tips, and make them into
11 cash. All of the money was thrown into the
12 bucket.

13 And then -- so you had an opening
14 server and an opening barista and their bucket.
15 Well, let's say it starts to get busy at 10:00
16 and you bring in a third person. Now you have
17 two servers and a barista.

18 Well, those two people are still going
19 but now you've added a third person, so now you
20 create a third bucket, okay. And let's say it's
21 noon and then it's the weekend and then it gets
22 really busy. So now you bring in, you know, a
23 third server. Well, now you add a third bucket.

24 Or maybe you bring in -- well, we



1 wouldn't really have four. We're not that big.
2 But, anyway. So you keep adding buckets as you
3 add people because the slice of pie keeps
4 getting smaller, right. And so you could have
5 people who would do the whole shift from
6 beginning to end. They would be in every
7 bucket.

8 And then some people would be cut
9 early, so now they're not in that last bucket,
10 et cetera. So that's -- it could get a little
11 complicated. You could have several buckets out
12 there with -- you know.

13 And, as I said, I stayed out of it.
14 This was how they chose to divide it up.

15 Q. There's a lot of buckets.

16 A. A lot of buckets.

17 Q. Is that how the -- to your knowledge
18 the tip pool operated during the period of
19 January 2018 through February 2020 with the
20 buckets?

21 A. Yeah.

22 Q. Okay. So you mentioned servers and
23 baristas. Were those the only two positions
24 that paid tips into the tip pool?



1 server carried a bank. And they would take it
2 out of their bank. And then we would rectify at
3 the end of the shift when they did their turn
4 in.

5 Q. Okay. Thank you. I apologize for the
6 confusion.

7 A. I was confused too. You're fine.

8 Q. I think we are on the same page now.
9 So when you say their own bank, like where was
10 their -- each servers bank kept? Was it on
11 their person or was it some place in the back?

12 A. It was either on their person. Some of
13 them physically carried it on them. Or behind
14 the counter where they were working and getting
15 things. You know, they have a little cubbyhole
16 where each one would have their, you know, money
17 in a folder or a porklinay (phonetic) or
18 something. And they, you know, keep them
19 separate.

20 Q. Okay. Thank you. So dishwashers
21 received a portion of the pooled tips, is that
22 right?

23 A. That's right.

24 Q. And what portion of pooled tips went to



1 dishwashers?

2 A. Five percent.

3 Q. And I think you had touched on this a
4 bit previously, but who determined the amount,
5 that five percent amount that dishwashers
6 received?

7 A. The servers and baristas who were
8 receiving the tips determined that.

9 Q. At what point in time was that
10 determined?

11 A. It was a long standing practice. It
12 was determined -- well, when we -- as I said, we
13 built the business up slowly. When we added the
14 dishwashers then it was determined, well, we
15 should give them a little something.

16 And then as the kitchen got busier and
17 busier -- you see, we used to not even have
18 food. And then when we re-did the kitchen and
19 added the food, then the kitchen -- people
20 started coming in and wanting the food.

21 So that's where we bought the second
22 building and started the Bakery. We didn't even
23 have room to bake anymore. So that's why we did
24 the offsite thing. So when the food thing grew



1 it's a fifteen year period. But it was never
2 changed.

3 Q. So I want to talk more about those
4 discussions in a minute. But just to I guess
5 cover the basics before we dive into that, cooks
6 also received tips from the tip pool, correct?

7 A. Correct.

8 Q. And was that amount also five percent?

9 A. Collectively, yes. Not each. It
10 wasn't that each cook that got five percent.
11 They pooled as well.

12 Q. The five percent was divided amongst
13 the cooks who had worked, is that right?

14 A. Correct.

15 Q. And then the remainder of the tip pool,
16 was that distributed to servers and baristas?

17 A. Yes. Ninety percent was then divided
18 equally among them.

19 Q. So besides the dishwashers, cooks,
20 servers, and baristas that we have discussed,
21 did anyone else get paid from the tip pool,
22 receive payments from the tip pool?

23 A. We had a brief time where we had a
24 hostess when it was super busy. And the hostess



1 was the change.

2 Q. Okay. Going back to the period
3 starting in January 2018 and then coming through
4 the present, how were servers and baristas
5 informed of the tip pool?

6 A. February '18 and going to the present,
7 that's the timeline you're referencing?

8 Q. I'm sorry, January 2018 through the
9 present. I apologize.

10 A. No, that's okay. January 2018 through
11 the present how were servers and baristas
12 informed of the tip pool?

13 Q. Yes.

14 A. Well, a new hire would receive a
15 handbook. And also when we hired, you know, we
16 essentially talked about it. We would tell
17 them. It's in writing and we tell them. I mean
18 you inform the new hire how things are done
19 here, you know.

20 Q. So when you say it was in writing
21 you're referring to that handbook?

22 A. Yeah.

23 Q. And would this occur then at the time
24 or around the time that the server or barista



1 was hired?

2 A. Yes.

3 Q. And who -- when you speak of them being
4 verbally informed that this is how this is done
5 here, who was the one who would be verbally
6 providing that information to the servers or
7 baristas, new servers or baristas?

8 A. I would provide that information when
9 interview and hiring. The people they work with
10 would provide that information when they started
11 working with them. I mean they would pick it up
12 and take it from there. So it would be
13 explained through really a number of people.

14 Q. Going back to the handbook quickly.
15 was the handbook provided to the Department of
16 Labor at any point either during the
17 investigation or after during formal discovery?

18 A. I don't know.

19 Q. Is that something that --

20 THE WITNESS: Did you?

21 MS. RHODE: If it was requested it was.

22 THE WITNESS: Yeah.

23 MS. RHODE: I mean I don't know right
24 offhand. But if you requested it, it was.



1 MS. NOLTE: Okay. Thank you. I will go back
2 and ensure that is the case. In the event that
3 it's not, is that something that Longbranch is
4 willing to provide to the Department of Labor?

5 MS. RHODE: Of course. Yes.

6 MS. NOLTE: Thank you.

7 BY MS. NOLTE:

8 Q. So then turning back to the verbal
9 communication either when the new server or
10 barista was hired or during the interview
11 process, what information was conveyed to
12 servers and baristas about the tip pool?

13 A. What was conveyed? Well, we basically
14 explained it. You know, how it worked. I have
15 already given you the details, Ms. Nolte. I
16 mean I can go over it again, but I think it's
17 already part of the record. I basically just
18 tried to explain, these are the procedures we
19 follow here.

20 And no one ever said like, oh, that
21 doesn't work for me. Or no one ever said, well,
22 I -- I mean I have worked at places where you
23 have your section and those are your tips and
24 you don't pool with anyone, right. And you can



1 give your dishwasher something if you want or
2 your busboy or whatever.

3 But it was explained, you know, this is
4 how we -- these are the practices we follow
5 here. And people were making plenty of money.
6 It seemed to work for everyone. I mean I never
7 had a person say I'm not willing to do that or I
8 would prefer to handle it another way.

9 I think people just accepted it and
10 jumped right in and got to work. And happily
11 so.

12 Q. Okay. And I certainly don't want to
13 make you repeat information that you have
14 already gone through. But just to verify the
15 tip pool, so were they told -- were new servers
16 and baristas told that a certain percentage of
17 the tip pool went to dishwashers and cooks?

18 A. Yes, that was -- the system was laid
19 out. Our goofy little bucket system was
20 explained. And also people were informed that
21 five percent went to the dishwasher and five
22 percent went to the cooks. That was put out
23 there straight up. If that's your question,
24 yes.



1 Q. Okay. Thank you. So we had talked
2 about discussions between servers and baristas
3 previously regarding the tip pool. During the
4 period of January 2018 through February 2020,
5 did servers and baristas have any meetings about
6 the tip pool, to your knowledge?

7 A. Have any what?

8 Q. Have any meetings about the tip pool,
9 to your knowledge?

10 A. Have any meetings? Well, we -- we had
11 occasional staff meetings. I don't know.
12 That's the short answer. I don't know if there
13 were any meetings about the tip pool. As I say,
14 it was a longstanding tradition. So in that
15 specific time period that you're giving me, I
16 don't know if -- I don't know if there were
17 meetings around that.

18 There were -- there were occasional
19 staff meetings. And it was occasionally
20 questioned do you want to continue to tip pool
21 and divide tips in this way. But specifically
22 that time period, I don't know.

23 Q. So the topic of whether and how --
24 whether to tip pool and how much was raised



1 during staff meetings at some point, is that
2 right?

3 A. Yes. It was raised off and on over the
4 years. As I said, we had been doing this
5 practice approximately fifteen years. And from
6 time to time it would be questioned do you want
7 to keep doing it this way. And in fact everyone
8 always said yes because it seemed to work for
9 everyone.

10 No one ever came to me and said -- I
11 was never aware of a staff meeting where people
12 said, no, I'm opposed to this. Or no one ever
13 came to me personally and said, hey, I need to
14 meet with you, this isn't working for me.

15 Nor was I informed like, hey, there is
16 a DOL reg that says you can't do this. That
17 would have been nice to know. So, yeah.

18 Q. So it sounds like what I'm hearing from
19 you is that that topic was discussed at staff
20 meetings at some point since the tip pool was --
21 or at some point, multiple points, since the tip
22 pool began, but you're not sure whether there
23 was a staff meeting that addressed this topic
24 during that specific period of January 2018



1 through February of 2020, is that right?

2 A. That's correct.

3 Q. Okay. Expanding then the period more
4 broadly. During the staff meetings in which the
5 tip pool was discussed, did you attend these
6 staff meetings or did you hear about it after?

7 A. I would attend every staff meeting.
8 So, yeah, I was -- I was at the staff meetings.
9 But the decision -- the tipping -- the tips
10 belonged to the servers and the baristas. I was
11 not part of that.

12 I never touched the money. I didn't
13 distribute the money. And I didn't decide how
14 it was to be handled. And, as I mentioned, they
15 still tip pool, just we know now not to give a
16 percentage to the cooks and dishwashers.

17 But that is their decision. If they
18 came to me today and said, you know what, we
19 want to go the old school restaurant style of
20 having stations and every man for himself, then
21 that's what we do.

22 Q. Aside from servers and baristas and you
23 mentioned you had attended those staff meetings
24 in which the tip pool was discussed, were there



1 Q. To your knowledge, has a server ever
2 decided or a barista ever decided to keep some
3 or all of their cash tips?

4 A. No.

5 Q. So you don't know of any instance in
6 which a server or barista decided to keep cash
7 tips?

8 A. No, I do not. My knowledge is we have
9 always pooled.

10 Q. Okay. How about credit card tips,
11 could servers chose to keep credit card tips if
12 they wanted to?

13 A. No, we have always -- we pooled.

14 Q. And then same for baristas?

15 A. Same.

16 Q. So then, to your knowledge, has a
17 server ever kept their card tips rather than
18 contribute them to the pool?

19 A. Not to my knowledge.

20 Q. And is that the same for baristas?

21 A. Yes.

22 Q. During the period of January 2018
23 through February 2020, what would have happened
24 if a server or a barista was found to have



1 pocketed some of their cash or credit card tips?

2 A. Well, if they had done it
3 surreptitiously without being upfront about it,
4 then we would have had a problem. And that
5 would have required going to my office and
6 having a little talk because that would be
7 something to work out.

8 Either way it would be something to
9 work out. If they came forward and just
10 straight up said like, hey, I don't agree with
11 the system, and the way I like to do things is
12 blah-blah-blah, and laid out their alternative
13 position, I would have been happy to entertain
14 that.

15 It probably would have required a staff
16 meeting and saying do other people feel this
17 way. I mean we are very process oriented and
18 kind of over-communicaters. And so that would
19 have -- you know, either way that would have
20 been something to talk about.

21 If they had been doing it
22 surreptitiously, that's a much bigger problem
23 than saying like, hey, I don't agree with the
24 system. But, you know, we would have had to



1 work through it.

2 I'm very loyal to kick people to the
3 curb for infractions. So it would take a lot to
4 get you fired. But, you know, we would have had
5 to work it out.

6 Q. Has that ever happened -- or during the
7 period of January -- I don't want to ask you
8 about a whole, you know, fifteen years. But
9 during the period of January 2018 through
10 February 2020 did that occur ever?

11 A. It's never occurred.

12 Q. It's never occurred. Okay. So has a
13 server or barista ever been ordered to tip out a
14 dishwasher or cook?

15 A. No. They are never ordered. They did
16 -- new hires did come into a pre-existing
17 climate where they might maybe have felt
18 ordered. Or like, you know, if I want to, you
19 know, fit in with this group, this is how things
20 are done. But they weren't ordered. But they
21 did understand how we do things here.

22 And maybe if he was a new high, you're
23 kind of like, okay, and you could go along with
24 it. It's very hard now, because these are super



1 Q. Does that percentage allocation reflect
2 what percentage allocations of the tip pool were
3 actually in fact being done at the time period
4 -- during the time period of January 2018
5 through February 2020?

6 A. No, it doesn't.

7 Q. What's different?

8 A. It was five percent to the kitchen and
9 five percent to the dishwasher. The bar back,
10 host, busboy, these are more theoretical
11 notions. But really the business -- I mentioned
12 earlier we had a hostess for a very brief
13 period.

14 We really didn't -- this just sort of
15 is written more theoretically should we have all
16 of these additional employees. But basically it
17 was five percent to the dishwasher and five
18 percent to the kitchen. This does not
19 accurately reflect the day-to-day business.

20 Q. Okay. And the reason it does not
21 accurately reflect is because there was not
22 necessarily a host or busboy at the time, is
23 that right?

24 A. Yes. Those people weren't active.



1 Those --

2 Q. Is there any -- oh, I'm sorry. Please
3 repeat that. I apologize.

4 A. Those employees, bar back, host,
5 busboy, they weren't actually on. We weren't
6 that busy. I think that's why I'm not sure
7 about the timeframe of this. As I said, we did
8 nothing but grow for many years.

9 I think this was kind of on the off
10 chance that we keep growing and I keep adding
11 staff. But in realty, we didn't have those
12 staff yet. Maybe it was just -- the thinking
13 was should we have them, be prepared to offer
14 them something as well. But it didn't actually
15 go that direction.

16 Q. Aside from that issue that we just
17 discussed, is there any other aspects of this
18 policy that did not accurately reflect the
19 operations of the tip pool in actuality during
20 the period of January 2018 through
21 February 2020?

22 A. That seems like a good representation.

23 Q. And despite the fact that this document
24 discusses a host, a busboy, positions that had



1 Q. So turning away from that. That's all
2 I really wanted to discuss with regard to the
3 alleged overtime violation. I want to talk
4 about efforts that the Cafe may have undertaken
5 to -- to ascertain information about the Fair
6 Labor Standards Act, which I might call the Act,
7 I might call the FLSA. So during the period of
8 January 2018 through February 2020 what did you
9 personally know about the Fair Labor Standards
10 Act?

11 A. Nothing.

12 Q. And would your answer be the same as a
13 representative of -- a corporate representative
14 of Longbranch?

15 A. I would not be apprised -- I did -- I
16 was not reading about the FLSA, whatever the
17 initials are. I didn't. So I was not informed
18 about that. I didn't spend my time researching
19 it. I mean I was absorbed in the day-to-day
20 operations of the business, honestly. I -- so
21 when I say nothing, I'm being pretty literal.

22 Q. Okay. Did you believe that the Cafe's
23 tip pool complied with the Fair Labor Standards
24 Act during the period of January 2018 through



1 worth mentioning is that bookkeepers, CPA's,
2 whatever, it was -- it was never -- or even
3 employees, it was never pointed out that there
4 was a violation of a reg. So I was not made
5 aware.

6 BY MS. NOLTE:

7 Q. I think you touched on this, but did
8 you look over any wage hour guidance materials
9 in determining compliance with the Fair Labor
10 Standards Act specifically?

11 A. What was the last part of your
12 sentence, Ms. Nolte?

13 Q. With regards to the Fair Labor
14 Standards Act, in determining compliance with
15 that?

16 A. Would you repeat your question please.

17 Q. Of course. Thank you. Did you ever
18 look over any wage hour guidance materials in
19 determining whether the tip pool complied with
20 the Fair Labor Standards Act?

21 A. No.

22 Q. What about in determining whether the
23 Cafe's overtime policies complied with the Fair
24 Labor Standards Act?



1 A. No. I relied on my bookkeeper to
2 compute the payroll. And we -- we -- and she
3 thought that we were doing it correctly. And in
4 fact when Lindsey Corona sat down with her and
5 explained the formula, we didn't know. So we
6 thought we were in complete compliance.

7 Q. So is it fair to say that you relied on
8 your bookkeeper with regards to the overtime --
9 or compliance with the overtime requirements?

10 A. Yes.

11 Q. Okay. Did you ever specifically
12 discuss with your bookkeeper the overtime
13 requirements of the Act?

14 A. No.

15 Q. And, to be specific, when we're
16 discussing your bookkeeper, would your -- would
17 you have relied on your bookkeeper with regard
18 to the tip pool or was that specific to the
19 overtime requirements?

20 A. That's specific to the overtime
21 requirements. I don't -- I don't think she had
22 any involvement with the tip pool or any
23 understanding of it whatsoever. That's kind of
24 behind the scenes in terms of different areas.



1 Q. Okay. Thank you.

2 A. She had nothing -- I guess she had
3 nothing to do with the tip pool.

4 Q. Okay. Sounds good. In determining
5 compliance with the Fair Labor Standards Act,
6 with regards to the tip pool or with regards to
7 the overtime requirements, did you ever like
8 look at wage hours websites?

9 A. No.

10 Q. Prior to the investigation did you ever
11 consult with any government officials, state,
12 local, federal, about the requirements of the
13 Fair Labor Standards Act?

14 A. No.

15 Q. And without revealing any privileged
16 information, did you ever consult with a lawyer
17 about compliance with the Fair Labor Standards
18 Act?

19 A. No.

20 Q. Is there like anybody else that you may
21 have consulted with, discussed, during the
22 period of January 2018 through the present in
23 compliance with the Fair Labor Standards Act?

24 A. No.



IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

MARTIN J. WALSH,)
Secretary of Labor,)
United States Department)
of Labor,)
Plaintiff,)
vs.) No. 2021 CV 56
DAYEMI ORGANIZATION,)
INC., d/b/a LONGBRANCH)
CAFE AND BAKERY, an)
Illinois Corporation,)
and ELAINE RAMSEYER)
GREENBERG, an)
individual,)
Defendants.)

I, ELAINE RAMSEYER GREENBERG, being
first duly sworn, on oath say that I am the
deponent in the aforesaid deposition taken on
the 30th day of September, 2021; that I have
read the foregoing transcript of my deposition,
and affix my signature to same.

ELAINE RAMSEYER GREENBERG

Subscribed and sworn to
Before me this_____ day
of_____, 2021.

Notary Public



1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF C O O K)
4

5 I, Trisha A. Rankin, Certified Shorthand
6 Reporter for the State of Illinois, do hereby
7 certify that heretofore, to-wit,
8 ELAINE RAMSEYER GREENBERG, personally appeared
9 before me via videoconference, in a cause now
10 pending and undetermined in the United States
11 District Court, Southern District of Illinois,
12 wherein MARTIN J. WALSH, et al., is the
13 Plaintiff and DAYEMI ORGANIZATION, INC., et al.,
14 are the Defendants.

15 I further certify that the said
16 ELAINE RAMSEYER GREENBERG, was first duly sworn
17 to testify the truth, the whole truth and
18 nothing but the truth in the cause aforesaid;
19 that the testimony then given by said witness
20 was reported stenographically by me in the
21 presence of the said witness, and afterwards
22 reduced to typewriting by Computer-Aided
23 Transcription, and the foregoing is a true and
24 correct transcript of the testimony so given by



1 said witness as aforesaid.

2 I further certify that the signature to
3 the foregoing deposition was reserved by counsel
4 for the respective parties.

5 I further certify that the taking of this
6 deposition was pursuant to notice and that there
7 were present at the deposition the attorneys
8 hereinbefore mentioned.

9 I further certify that I am not counsel
10 for, nor in any way related to the parties to
11 this suit, nor am I in any way interested in the
12 outcome thereof.

13 IN TESTIMONY WHEREOF: I have hereunto
14 set my verified digital signature, this 22nd day
15 of october 2021.

16
17
18 

19
20 TRISHA RANKIN
21 CSR LIC. NO. 084.004833
22
23
24



McCorkle Litigation Services, Inc.
200 North LaSalle Street, Suite 770
Chicago, Illinois 60601-1014

CERTIFIED MAIL

October 22nd, 2021

Ms. Elaine Ramseyer Greenberg
100 East Jackson Street
Carbondale, Illinois 62901

IN RE: MARTIN J. WALSH vs. DAYEMI
ORGANIZATION, INC.
DATE OF DEPOSITION: September 30th, 2021

Dear Ms. Ramseyer Greenberg:

Your deposition taken in the above-entitled
cause is now ready for reading and signing as
required by law.

Please Call the Signature Department upon
receipt of this letter to schedule an
appointment to come to the above address to read
and sign your deposition. You have 28 days from
the date of this correspondence in which to
appear for reading and signing.

If you fail to appear or to notify us so that we
may make arrangements for another appointment,
your deposition will be completed and forwarded
to the attorneys and will be "... used as fully
as though signed."

_____ Procedure outlined in Rule 207 (a) of
the Illinois Supreme Court Rules

_____ Procedure outlined in Rule 30 (e) of
the Rules of Civil Procedure for the
U.S. District Courts

Sincerely,
Cindy Alicea
Signature Department
(312) 263-0052

Court Reporter Present:
Trisha Rankin

